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the first composition wall thickness is substantially different than
the second composition wall thickness.

REMARKS

Status of the Claims:

Entry of the present Amendment and reconsideration of the claims is requested. As of entry of the Amendment, Claims 1-54 are pending in the application, and claims 1-13 and 51-54 are being considered by the Examiner.

Claims 1-13 stand rejected.

Technical Rejections:

The specification has been amended to provide proper antecedent basis for the claimed subject matter. Page 11, line 2 has been amended to read that the stick composition can also be applied to an animal.

Rejections Under 35 U.S.C. § 103(a):

Claims 1-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Pears (U.S. Patent No. 1,851,322) in view of Prince (U.S. Patent No. 3,192,933).

The Examiner states that in regard to claims 1, 3, 4, 5 and 12 that Pears discloses a lipstick product comprised of its container having walls wherein

the product is in sliding contact with the walls. The Examiner specifically directs Applicants to portions b and e in the Pears patent. The Examiner then states that the stick disclosed is not formed of two different compositions, but that Prince discloses a lipstick product wherein the product is formed from two separate colored compositions.

Applicants respectfully submit that claims 1 and 12, as amended, are not obvious in light of Pears. Claims 1 and 12 of the present invention have been amended to make it clear that the presently claimed stick product includes a container that has an interior contour that is substantially smooth. In addition, the molded stick composition is now recited as being retractable into the container. This is in direct contrast to Pears' invention. The Examiner is respectfully directed to Figures 1-3 and 5 and page 1, lines 30-99 of the Pears' patent. Pears discloses projections only near the delivery end. These projections are "adapted to bite into the stick". See page 1, lines 32-33. Thus the walls or projections of Pears' invention removes or "bites" a portion of the stick as it is dispensed. This "biting" will remove material from the stick, allowing less material to be applied and reducing the surface area of the stick. Also, the removed material will naturally build up over the course of use and need to be disposed of. In opposite, the present invention does not remove any material as the molded stick composition is advanced or ejected. Thus, the present invention is more efficient, as more of the stick can be applied to the user and a greater surface area can be used to apply it.

Also, the present invention will not have the difficulty of having to dispose of the removed material.

The Examiner's attention is also respectfully directed to the specification in Pears wherein Pears states that the projections are designed to hold the stick in the projected position and to prevent retraction (see Pears page 1, lines 30-34, 67-75, 99-100 and page 2, lines 1-5). Further, both of Pears' claimed embodiments define the projections as "rifling". Rifling is defined by Pears as "one or more rings, spirals or ribs resembling the rifling of a gun barrel", page 1, lines 92-93. Pears further states that this "rifling impart a twisting movement to the stick when being pushed through the holder", page 1, lines 99-100; page 2, lines 1-2. This limitation is not present in the current invention. The molded stick composition's sliding contact with the walls of the container do not impart any twisting movement to the molded stick composition. The claims as amended recite a substantially smooth surface and a substantially smooth surface will not, under normal circumstances, impart a twisting motion to an object slid against it.

Claims 1 and 12 now recite that the molded stick composition can be retracted into the container. The ability to retract the stick is specifically taught away from in Pears. Thus, it is submitted that the references do not teach or suggest an interior smooth walled container that allows the stick to be retracted. Thus, independent claims 1 and 12 are allowable.

The Examiner next states that Prince discloses a lip-stick formed of

two compositions which differ in color and thus it would be obvious to one of ordinary skill in the art at the time the invention was made to combine Prince's two-composition lip-stick into Pears' container. However, Prince fails to teach or suggest the deficiencies noted in Pears above, and, therefore, independent claims 1 and 12 are allowable.

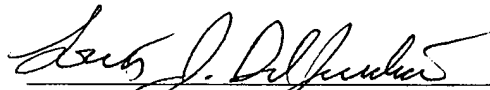
To further distinguish the present invention, Applicants have added dependent claims 51-54. Prince discloses a two-composition lip-stick wherein he specifically claims that the "hollow cosmetic rod['s]... wall thickness is substantially equal to one-half the diameter of the hollow in the rod" (see, for example, claims 1 and 4). Claims 51 and 53 specifically state that the wall thicknesses of the first composition is substantially different than the wall thickness of the second composition, as can be clearly shown by Figures 2a, 2c-2e, 2h, and 2k-2y. Thus, Prince specifically teaches away from having two compositions where one has a larger wall thickness than the other, and Applicants maintain that it would not have been obvious to one of ordinary skill in the art at the time the invention was made to alter the thicknesses of the two compositions.

Also, in applying Prince's limitation of wall thickness, this naturally requires that the surface area of each compound be substantially equal. Claims 52 and 54 specifically state that the surface area of the first compound is substantially different than the second compound. This can be clearly shown in Figures 2a, 2c-2f, 2h, and 2k-2y.

CONCLUSION

Applicants submit that the present claims are conditioned for allowance. Such action is earnestly solicited.

Respectfully submitted,



Louis J. DelJuidice
Reg. No. 47,522
Agent for Applicants

DARBY & DARBY, P.C.
805 Third Avenue
New York, N.Y. 10022
Phone (212) 527-7700

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In re Application of: J. LOOK

Serial No.: 09/584,640

Art Unit: 3751

FEB 14 2002
TECHNOLOGY CENTER R3700

Confirmation No.:

Filed: MAY 31, 2000

Examiner: D. WALCZAK

For: **MULTI-COMPOSITION STICK PRODUCT AND A PROCESS AND SYSTEM FOR MANUFACTURING THE SAME**

MARKED-UP AMENDMENT PURSUANT TO 37 C.F. R. § 1.121

Hon. Commissioner of
Patents and Trademarks
Washington, DC 20231

February 8, 2002

In the Specification:

Please amend the specification as follows:

Page 11, line 1, please rewrite the paragraph to read as follows:

The stick composition may be a composition intended for topical

application to a person or animal, such as a lip balm, lipstick, lip gloss, deodorant, or sunscreen, or other composition, such as a glue stick. The stick composition is sufficiently solid to substantially retain its shape when advanced or ejected from the container.

In The Claims:

Please amend Claims 1 and 12 to read as follows:

1. (Twice Amended) A multi-composition stick product, comprising:

(a) a container having walls, an exterior contour, and an interior contour, said interior contour being substantially smooth; and

(b) a molded stick composition disposed so as to be in sliding contact with the walls of the container and be advanceable and retractable in the container, the stick composition comprising:

(i) a first composition; and

(ii) a second composition;

wherein the first and second compositions differ by at least one component and the compositions are arranged in a predetermined non-random pattern that is reproducible.

12. (Twice Amended) A multi-color stick product, comprising:

(a) a container having walls, said walls being substantially smooth; and

(b) a molded multi-color stick composition disposed so as to be in sliding contact with the walls of the container and be advanceable and retractable in the container, the stick composition comprising:

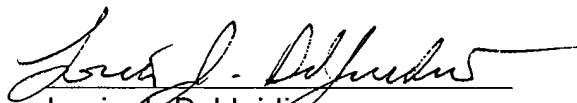
(i) a first composition; and

(ii) a second composition;

wherein the first and second compositions differ in color and are arranged in a predetermined non-random image that is reproducible.

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Louis J. DelJuidice

Reg. No. 47,522

Agent for Applicants

DARBY & DARBY, P.C.
805 Third Avenue
New York, N.Y. 10022
Phone (212) 527-7700

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